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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/699,198

10/27/2000

Suhail Nanil

004906.P003

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08/19/2005

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EXAMINER

SAM, PHIRIN

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/699,198

Applicant(s)

NANIL, SUHAIL

Examiner

Phirin Sam

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-13, 15-21, 23-30, 32, 34-40, 42-44 and 48-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21, 23, 24, 26, 28-30, 32, 34, 35, 42, 43, 48-50, 63-68 and 75-77 is/are allowed.
- 6) ☒ Claim(s) 10-13, 15-18, 25, 27, 36-38, 40, 42, 44, 50, 51, 53-57, 59-62 and 69-74 is/are rejected.
- 7) ☒ Claim(s) 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**PHIRIN SAM**  
**PRIMARY EXAMINER**

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10, 12, 13, 15, 16, 18, 36, 38, 40, 55, 56, and 58-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,366,561 (hereinafter referred as "Bender") in view of US Pub. 2002/0038419 (hereinafter referred as "Garrett").

Bender discloses the invention (**amended claims 13, 16, 18, and claims 36, 55, 59, 61, 62**) claimed including a machine readable medium that provides instructions, which when execute by a set of processors, cause the set of processors to perform operations comprising:

- (a) encapsulating an Ethernet frame in layer 2 tunneling protocol (L2TP) (see Figs. 6b and 10b, col. 8, lines 48-54);
- (b) transmitting the L2TP encapsulated Ethernet frame over a network (see Figs. 6b and 10b, col. 8, lines 56-59);
- (c) decapsulating the Ethernet frame from L2TP (see Figs. 6b and 10b, col. 8, lines 61-62);

Bender does not disclose performing session fail retry. However, Garrett discloses performing session fail retry (see Figs. 6 and 7, page 3, line [0017]). Wherein the network device performs session to determine the source address to the addresses of the providers. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine performing session fail retry teaching by Garrett with Bender. The motivation for doing so would

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have been to provide to enable multiple services to share the facilities of an access network read on page 1, line [0004]. Therefore, it would have been obvious to combine Garrett and Bender to obtain the invention as specified in the claims 13, 16, 18, 36, 55, 59, 61, and 62.

**Regarding amended claims 10, 15, and claims 38, 56, 60,** Bender discloses the L2TP encapsulated Ethernet frame is transmitted on one of a plurality of sessions of a non-homogenous tunnel (see Fig. 6B).

**Regarding amended claim 12, and claims 40, 50,** Bender discloses all limitations. On the other hand, Bender does not disclose transmitting a MAC address. However, Garrett discloses transmitting a MAC address (see Fig. 2b, page 2, line [0015]). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the MAC address teaching by Garrett with Bender. The motivation for doing so would have been to provide to identify each node of a network or network device. Therefore, it would have been obvious to combine Garrett and Bender to obtain the invention as specified in the claims 12, 40, and 58.

3. Claims 11, 13, 16-18, 25, 27, 36, 37, 42, 44, 50, 51, 53-55, 57, 59, and 69-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,366,561 (hereinafter referred as "Bender") in view of US Patent 6,801,509 (hereinafter referred as "Chuah").

Bender discloses the invention (**amended claims 13, 16-18, 25, 27, 44, and claims 36, 55, 59, 69, 72**) as claimed including a machine readable medium that provides instructions, which when execute by a set of processors, cause the set of processors to perform operations comprising:

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- (a) encapsulating an Ethernet frame in layer 2 tunneling protocol (L2TP) (see Figs. 6b and 10b, col. 8, lines 48-54);
- (b) transmitting the L2TP encapsulated Ethernet frame over a network (see Figs. 6b and 10b, col. 8, lines 56-59);
- (c) decapsulating the Ethernet frame from L2TP (see Figs. 6b and 10b, col. 8, lines 61-62);

Bender does not disclose performing session fail retry. However, Chuah discloses performing session fail retry (see Figs. 2 and 3, col. 5, line 28-32). Wherein the network device performs session to determine the source address to the addresses of the providers. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine performing session fail retry teaching by Chuah with Bender. The motivation for doing so would have been to provide to check the validation of VPN read on col. 5, lines 29-30. Therefore, it would have been obvious to combine Chuah and Bender to obtain the invention as specified in the claims 13, 16-18, 36, 44, 55, 59, 69, and 72.

**Regarding claim 11, and claims 37, 57,** Bender discloses all limitations. On the other hand, Bender does not disclose attribute value pairs (AVPs). However, Chuah discloses AVPs (see col. 6, lines 50-56). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine AVPs teaching by Chuah with Bender. The motivation for doing so would have been to provide to establish the control connection. Therefore, it would have been obvious to combine Chuah and Bender to obtain the invention as specified in the claims 11, 37, and 57.

**Regarding amended claim 42, and claims 50-51, 53-54, 70-71, 73-74, Bender discloses** the L2TP encapsulated Ethernet frame is transmitted on one of a plurality of sessions of a non-homogenous tunnel (see Fig. 6B).

***Allowable Subject Matter***

4. Claims 19-21, 23, 24, 26, 28-30, 32, 34, 35, 42, 43, 48-50, 63-68, and 75-77 are allowed.
5. Claim 39 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - (1) US Patent 6,654,808 (Chuah) discloses providing quality of service in layer two tunneling protocol networks.
  - (2) US Patent 6,522,627 (Mauger) discloses managing internet protocol connection oriented services.
  - (3) US Patent 6,487,689 (Chuah) discloses receiver initiated recovery algorithm for the layer 2 tunneling protocol.
  - (4) US Patent 6,473,798 (Grosser, Jr. et al) discloses method and system for testing a layer 2 tunnel in a data communication network.

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(5) US Patent 6,452,920 (Comstock) discloses mobile terminating L2TP using mobile IP data.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on Mon-Fri, 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272 - 3126. The fax number for the organization where this application or proceeding is assigned is (571) 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: August 18, 2005

  
\_\_\_\_\_  
**PHIRIN SAM**  
**PRIMARY EXAMINER**